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24628   7590   06/22/2010
Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

EXAMINER
MURRAY, DANIEL C

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _24 March 2010_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-40_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-40_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.   **Claim 15** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to

particularly point out and distinctly claim the subject matter which applicant regards as the

invention. Applicant attempts to invoke 35 U.S.C. 112 sixth paragraphs by using a means-plus-

function claims structure. However, the means-plus-function statements (i.e. means for sending,

means for transferring) as recited in the claim do not have a corresponding structure/algorithm in

the specification.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   **Claims 1-6, 8-9, 15-20, 22-23, 29-34, 36-37, and 40** are rejected under 35 U.S.C. 102(e) as

being anticipated by **McKinnon et al. (US 2004/0133647 A1).**

a) Consider **claims 1 and 29,** McKinnon et al. clearly show and disclose, a method and

apparatus of/for processing information within a computer system, such method comprising the

steps of: sending a SIP SUBSCRIBE message from a first computer resource of the computer

system to a presentity server of the computer system, the presentity server separate from the first

computer resource, the SIP SUBSCRIBE message identifying a second resource separate from the

presentity server and requesting a status of the second resource where the second resource

performs a predetermined service for the first resource (figure 3, abstract, paragraph [0005], [0020],

[0021], [0027], [0028], [0029], [0031]); sending a SIP NOTIFY message from the presentity server to

the first resource notifying the first resource of the status of the second resource (abstract,

paragraph [0005], [0021], [0027], [0028], [0029], [0031]).

b) Consider **claims 2 and 30,** and **as applied to claims 1 and 29 above,** McKinnon et al.

clearly show and disclose, the method and apparatus for processing information as in claims 1 and

29 further comprising the first resource requesting the predetermined service from a third resource

when the second resource is not available (paragraph [0018], [0019], [0023], [0033], [0034], [0035],

[0040], [0041], [0042]).

c) Consider **claim 3,** and **as applied to claim 1** above, McKinnon et al. clearly show and

disclose, the method of processing information as in claim 1, wherein the second resource is an

automatic contact distributor which searches for the presentity server upon being activated and

registers a presence by sending a SIP REGISTER message to the presentity server (paragraph

[0002], [0004], [0028], [0030], [0040]).

d) Consider **claim 4,** and **as applied to claim 3 above,** McKinnon et al. clearly show and

disclose, the method as in claim 3, wherein the resource sends a SIP SUBSCRIBE message to the

presentity server identifying the automatic, contact distributor and requesting status information

regarding the automatic contact distributor (paragraph [0002], [0004], [0026], [0027], [0031], [0037]).

e) Consider **claim 5,** and **as applied to claim 4 above,** McKinnon et al. clearly show and

disclose, the method of processing information as in claim 4, wherein the presentity server further

confirms that the automatic contact distributor is registered with the presentity server and sends a

SIP SUBCRIBE message to the automatic contact distributor requesting a SIP NOTIFY message

from the automatic contact distributor in response to confirming registration (paragraph [0002],

[0004], [0023], [0026], [0027], [0031], [0037], [0038], [0039]).

f) Consider **claim 6,** and **as applied to claim 5 above,** McKinnon et al. clearly show and

disclose, the method of processing information as in claim 5, wherein the requested status further

comprises determining whether the automatic contact distributor is available or unavailable and the

automatic contact distributor forwarding the SIP NOTIFY message containing notification of

availability of the automatic contact distributor to the presentity server and to the first computer

resource in response to the SIP SUBSCRIBE message sent from the presentity server to the

automatic call distributor (paragraph [0002], [0004], [0018], [0019], [0023], [0040], [0041], [0042]).

g) Consider **claim 8,** and **as applied to claim 5 above,** McKinnon et al. clearly show and

disclose, the method of processing information as in claim 5 wherein-automatic call distributor

forwards the NOTIFY message containing a loading level of the call distributor to the presentity

server and the first computer resource (figure 7a, figure 7b, paragraph [0040], [0041], [0042], [0043]).

h) Consider **claim 9,** and **as applied to claim 8 above,** McKinnon et al. clearly show and

disclose, the method of processing information as in claim 8 wherein the second resource further

comprises a call routing application of the automatic call distributor (paragraph [0029], [0030]) and

wherein a report generator sends a SIP SUBCRIBE message to the presentity server requesting

status of the first resource and second resource and in response receives data for generating reports

(figure 3, abstract, paragraph [0005], [0018], [0019], [0020], [0021], [0023], [0027], [0028], [0029],

[0031]).

i) Consider **claim 15,** McKinnon et al. clearly show and disclose, an apparatus for processing information within a computer system, such apparatus comprising: means for sending a SIP SUBSCRIBE message from a first computer resource of the computer system to a presentity server of the computer system, the presentity server separate from the first computer resource, the SIP SUBSCRIBE message identifying a second resource separate from the presentity server and requesting a status of the second resource, where the second resource performs call transfers for the first resource based upon the type of each call (figure 3, abstract, paragraph [0005], [0020], [0021], [0027], [0028], [0029], [0031]); means for sending a SIP NOTIFY message from the presentity server to the first resource notifying the first resource of the status of the second resource (abstract, paragraph [0005], [0021], [0027], [0028], [0029], [0031]); and means for transferring the calls to a third resource when the second resource is not available (paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]).

i) Consider **claim 16,** and **as applied to claim 15 above,** McKinnon et al. clearly show and disclose, the apparatus for processing information as in claim 15 further comprising the first resource requesting the call transfers from a third resource when the second resource is not available (paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]).

k) Consider **claims 17 and 31,** and **as applied to claim 15 and 29 above,** McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 15 and 29 wherein the computer system further comprises an automatic call distribution system (paragraph [0002], [0028], [0040]) and wherein the presentity server further confirms that they first resource is registered with the presentity server and forwards the SIP SUBSCRIBE message to the second resources requesting a SIP notify message from the second resource (paragraph [0020], [0023], [0037], [0038]).

l) Consider **claims 18 and 32,** and **as applied to claims 17 and 31 above,** McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 17 and 31 wherein the first and second resources further comprise call distributors of the automatic call distribution system (abstract, paragraph [0033], [0034], [0035], [0036], [0040], [0041], [0042]) and wherein the second resources sends the SIP NOTIFY message to the presentity server in response to the SIP SUBSCRIBE message (paragraph [0020], [0023], [0037], [0038]).

m) Consider **claim 33,** and **as applied to claim 32 above,** McKinnon et al. clearly show and disclose, the apparatus for processing information as in claim 32 wherein the predetermined service further routing calls to agents (abstract, paragraph [0036], [0040], [0041], [0042]).

n) Consider **claim 19,** and **as applied to claim 18 above,** McKinnon et al. clearly show and disclose, the apparatus for processing information as in claim 18 wherein the call transfers comprise routing calls to agents (abstract, paragraph [0033], [0034], [0035], [0036], [0040], [0041], [0042]).

o) Consider **claims 20 and 34,** and **as applied to claims 19 and 33 above,** McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 19 and 33 wherein the requested status further comprises determining whether the second call distributor is available or unavailable (paragraph [0018], [0019], [0023], [0040], [0041], [0042]).

p) Consider **claims 22 and 36,** and **as applied to claims 15 and 29 above,** McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 15 and 29 wherein the computer system further comprises an automatic call distributor (paragraph [0002], [0028], [0040]).

q) Consider **claims 23 and 37,** and **as applied to claims 22, and 36 above,** McKinnon et al. clearly show and disclose, the apparatus for processing information as in claims 22 and 36

wherein the second resource further comprises a call routing application of the automatic call

distributor (paragraph [0029], [0030]).

r) Consider **claim 40,** and **as applied to claim 29 above,** McKinnon et al. clearly show and

disclose, the apparatus for processing information as in claim 29 further comprising a

reconfiguration processor which subscribes to a status of the first resource, detects whether the first

resource has gone offline thereby becoming; an offline resource, and in response to such a detection,

instructs a proxy server to redirect to another resource any calls that would have gone to the offline

resource (McKinnon; figure 7a, figure 7b, paragraph [0040], [0041], [0042]).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section
> 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the
> subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

6.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966),

that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a)

are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or
nonobviousness.

7.   This application currently names joint inventors. In considering patentability of the claims

under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was

commonly owned at the time any inventions covered therein were made absent any evidence to the

contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and

invention dates of each claim that was not commonly owned at the time a later invention was made

in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35

U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8.   **Claims 7, 21, and 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over

McKinnon et al. (US 2004/0133647 A1) in view of **Chaney et al. (US Patent Publication # US**

2003/010800 A1) in further view of **Wolff (US Patent # US 6,185,601 B1).**

        a) Consider **claim 7,** and **as applied to claim 6 above,** McKinnon et al. clearly show and

disclose, the method as in claim 6, wherein the step of determining the availability of the automatic

call distributor (paragraph [0002], [0004], [0028], [0040]). However, McKinnon et al. does not

specifically disclose a loading level of the automatic call distributor with a threshold level and

determining that the automatic call distributor is unavailable when the loading level exceeds the

threshold level and determining that the automatic call distributor is available when the loading level

does not exceed the threshold.

        Chaney et al. show and disclose a system and method of providing access to services in a

telecommunications network utilizing the Session Initiation Protocol (SIP) wherein determining the

availability of the automatic call distributor comprises comparing a loading level of the automatic call

distributor (abstract, paragraph [0015], [0040]).

        Therefore, it would have been obvious to one of ordinary skill in the art that the time the

invention was made to incorporate the teachings of Chaney et al. into the system of McKinnon et al.

for the purpose of making call distribution more efficient by preventing any one call distributor

from becoming overloaded. However, McKinnon et al. as modified by Chaney et al. does not

specifically disclose comparing a loading level of the automatic distributor with a threshold level and

determining that the automatic distributor is unavailable when the loading level exceeds the

threshold level and determining that the automatic distributor is available when the loading level

does not exceed the threshold.

Wolff shows and discloses a system for distributing the I/O request load over the

components of a network. More particularly, a system for distributing the responsibility for carrying

out I/O requests among various servers on a network, wherein Wolff discloses comparing a loading

level of the automatic distributor with a threshold level and determining that the automatic

distributor is unavailable when the loading level exceeds the threshold level and determining that the

automatic distributor is available when the loading level does not exceed the threshold (abstract,

column 2 lines 52-62, column 11 lines 34-41, column 25 lines 26-33 lines 48-53).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the

invention was made to incorporate dynamic load balancing based on thresholds, as taught by, Wolff

into the system of McKinnon et al. as modified by Chaney et al. for the purpose of for the purpose

of making call distribution more efficient by preventing any one call distributor from becoming

overloaded.

b) Consider **claims 21 and 35,** and **as applied to claims 20 and 34 above,** McKinnon et

al. clearly show and disclose, the apparatus for processing information as in claims 20 and 34,

wherein the step of determining the availability of the second call distributor. However, McKinnon

et al. does not specifically disclose a loading level of the second call distributor with a predetermined

threshold level and determining that the second call distributor is unavailable when the loading level

exceeds the predetermined threshold level and determining that the second call distributor is available when the loading level does not exceed the predetermined threshold.

Chaney et al. show and disclose a system and method of providing access to services in a telecommunications network utilizing the Session Initiation Protocol (SIP) wherein determining the availability of the second call distributor comprises comparing a loading level of the second call distributor (abstract, paragraph [0015], [0040]).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate the teachings of Chaney et al. into the system of McKinnon et al. for the purpose of making call distribution more efficient by preventing any one call distributor from becoming overloaded. However, McKinnon et al. as modified by Chaney et al. does not specifically disclose comparing a loading level of the second call distributor with a predetermined threshold level and determining that the second call distributor is unavailable when the loading level exceeds the predetermined threshold level and determining that the second call distributor is available when the loading level does not exceed the predetermined threshold.

Wolff shows and discloses a system for distributing the I/O request load over the components of a network. More particularly, a system for distributing the responsibility for carrying out I/O requests among various servers on a network, wherein Wolff discloses comparing a loading level of the second call distributor with a predetermined threshold level and determining that the second call distributor is unavailable when the loading level exceeds the predetermined threshold level and determining that the second call distributor is available when the loading level does not exceed the predetermined threshold (abstract, column 2 lines 52-62, column 11 lines 34-41, column 25 lines 26-33 lines 48-53).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate dynamic load balancing based on thresholds, as taught by, Wolff into the system of McKinnon et al. as modified by Chaney et al. for the purpose of for the purpose of making call distribution more efficient by preventing any one call distributor from becoming overloaded.

9.   **Claims 10, 24, and 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McKinnon et al. (US 2004/0133647 A1)** in view of **Gray et al. (US Patent Publication US 2005/0100157 A1).**

a) Consider **claims 10, 24, and 38,** and **as applied to claims 9, 23, and 37 above,** McKinnon et al. clearly show and disclose, the method and apparatus of/for processing information as in claims 9, 23, and 37. However, McKinnon et al. does not specifically disclose the first resource further comprises a call classification application of the automatic call distributor that determines a call type of an incoming call.

Gray et al. show and disclose a context aware call processing architecture for effecting user-defined features wherein the first resource further comprises a call classification application of the automatic call distributor that determines a call type of an incoming call (abstract, paragraph [0008], [0009], [0053]).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate the teachings of Gray et al. into the system of McKinnon et al. for the purpose of handling calls based on context information.

10.   **Claims 11-14, 25-28, and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over

McKinnon et al. (US 2004/0133647 A1) as modified by **Gray et al. (US Patent Publication US**

2005/0100157 A1) in view of **Chaney et al. (US Patent Publication # US 2003/010800 A1)** in

further view of **Wolff (US Patent # US 6,185,601 B1).**

 a) Consider **claims 11, 25, and 39,** and **as applied to claims 10, 24, and 38 above,**

McKinnon et al. as modified by Gray et al. clearly show and disclose, the method and apparatus

of/for processing information as in claims 10, 24, and 38. However, McKinnon et al. as modified by

Gray et al. does not specifically disclose defining the status as being a loading level of the call routing

application.

 Chaney et al. show and disclose a system and method of providing access to services in a

telecommunications network utilizing the Session Initiation Protocol (SIP) wherein determining the

availability of the second call distributor comprises comparing a loading level of the second call

distributor (abstract, paragraph [0015], paragraph [0040]).

 Therefore, it would have been obvious to one of ordinary skill in the art that the time the

invention was made to incorporate the teachings of Chaney et al. into the system of McKinnon et al.

as modified by Gray et al. for the purpose of making call distribution more efficient by preventing

any one call distributor from becoming overloaded. However, McKinnon et al. as modified by Gray

et al. as further modified by Chaney et al. does not specifically disclose comparing a loading level of

the second call distributor with a threshold level and determining that the second call distributor is

unavailable when the loading level exceeds the threshold level and determining that the second call

distributor is available when the loading level does not exceed the threshold.

 Wolff shows and discloses a system for distributing the I/O request load over the

components of a network. More particularly, a system for distributing the responsibility for carrying

out I/O requests among various servers on a network, wherein Wolff discloses comparing a loading

level of the second call distributor with a threshold level and determining that the second call

distributor is unavailable when the loading level exceeds the threshold level and determining that the

second call distributor is available when the loading level does not exceed the threshold (abstract,

column 2 lines 52-62, column 11 lines 34-41, column 25 lines 26-33 lines 48-53).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the

invention was made to incorporate dynamic load balancing based on thresholds, as taught by, Wolff

into the system of McKinnon et al. as modified by Gray et al. as further modified by Chaney et al.

for the purpose of for the purpose of making call distribution more efficient by preventing any one

call distributor from becoming overloaded.

b) Consider **claims 12 and 26,** and **as applied to claims 11 and 25 above,** McKinnon et al.

as modified by Gray et al. as modified by Chaney et al. as further modified by Wolff clearly show

and disclose, the method and apparatus of/for processing information as in claims 11 and 25 further

comprising defining the loading level as a call queue length (McKinnon et al. figure 7a, figure 7b,

paragraph [0040], [0041] , [0042], [0042]; Chaney et al. abstract, paragraph [0015], [0040]).

c) Consider **claims 13 and 27,** and **as applied to claim 12 and 26 above,** McKinnon et al.

as modified by Gray et al. as modified by Chaney et al. as further modified by Wolff clearly show

and disclose, the method and apparatus of/for processing information as in claims 12 and 26 further

comprising determining that the routing application is unavailable when the loading level exceeds a

predetermined threshold and available when the routing application does not exceed the

predetermined threshold (Chaney et al. abstract, paragraph [0015], paragraph [0040]).

d) Consider **claim 14,** and **as applied to claim 13 above,** McKinnon et al. as modified by

Gray et al. as modified by Chaney et al. as further modified by Wolff clearly show and disclose, the

method of processing information as in claim 13 further comprising the call classification

application requesting the predetermined service form a third resource when the call routing

application is not available (McKinnon; paragraph [0018], [0019], [0023], [0033], [0034], [0035],

[0040], [0041], [0042]; Chaney; abstract, [0015], [0040]).

e) Consider **claim 28,** and **as applied to claim 27 above,** McKinnon et al. as modified by

Gray et al. as modified by Chaney et al. as further modified by Wolff clearly show and disclose, the

apparatus for processing information as in claim 27 wherein the call classification application

requesting the third resource when the call routing application is not available (McKinnon;

paragraph [0018], [0019], [0023], [0033], [0034], [0035], [0040], [0041], [0042]; Chaney; abstract,

[0015], [0040]).

Response to Arguments

11.   Applicant's arguments filed 24MAR2010 have been fully considered but they are not

persuasive.

In response to this and future Office Actions the Examiner respectfully requests that

Applicant clearly delineate what claimed features Applicant alleges the references do not disclose

from Applicants arguments on why the Applicant thinks the references do not disclose those

features in order to expedite prosecution. While the Examiner believes he was able to discern what

Applicant's arguments were with respect to the present case at times it was difficult to determine

exactly what Applicant was attempting to argue.

Applicant argues that "The Office Action asserts McKinnon discloses that participating

devices also use the SUBSCRIBE message to establish relationships not just watch devices, and that

each resource 20 has its own presentity and is separate from the presentity server, while the

presentity server and presentities provide information to the resources, and that each device is represented by a presentity which communicates with devices. However, even if all of that is true, there is no disclosure of the devices sending a SIP SUBSCRIBE message to a presentity server identifying the second resource and requesting a status of the second resource as claimed. The SIP SUBSCRIBE messages in McKinnon are only described as being used to establish a relationship with a presentity, not to request status from another device. Further, there is no disclosure in McKinnon that one device requests information from the presentity server for a device which performs a service for the requesting device, or a SIP SUBSCRIBE message that identifies that device. None of the cited passages describe a SIP SUBSCRIBE message sent from a first device to a presentity sever, requesting status of a second device, or the message identifying the second device for which status is requested. Thus, these features are not disclosed by McKinnon.

The Examiner respectfully disagrees; as stated in the previous Office Action McKinnon clearly disclose other resources (participating devices) also use the SUBSCRIBE/NOTIFY messages to establish a relationships with presentities (figure 3, paragraph [0005], [0027], [0031], [0033], [0034], [0040], [0041]) and as such isn't limited to just watcher devices. McKinnon also clearly discloses that each of the resources 20 (watcher devices and participant devices) has its own presentity 16 and the resources are separate from the presentity server 14 (figure 3, paragraph [0026], [0027]). The presentity server and the presentities thereon are clearly providing availability information (abstract, paragraph [0018], [0019]) to the resources with which they are associated, therefore the SUBSCRIBE/NOTIFY messages being sent between presentities is equivalent to sending the SUBSCRIBE/NOTIFY messages between the resources themselves (i.e. the presentities are functionally part of the associated resource). Furthermore, McKinnon clearly discloses that each

of the participant devices are represented by a particular presentity in the presences system and that the presentities communicate with the participant devices (paragraph [0026], [0027], [0039]).

Furthermore, McKinnon clearly discloses sending messages between the presentity server and separate devices (paragraph [0020]). McKinnon discloses a communication network 10 supports communications between a plurality of watcher devices 12, a presence server 14 providing one or more logical presentities 16, and numerous event sources 18. The watcher devices 12 are the entities that subscribe to the presentities 16 of the presence system to receive presence information based on changes in state of event sources 18 associated with a corresponding presentity 16. The presentity 16 determines changes in state by receiving event notifications from one or more of the event sources 18 via the presence server 14 or like presence function, processes the event notifications to create presence information, and delivers the presence information to the subscribing watcher devices 12 as necessary. *The presence function may be centralized or distributed in presence servers 14 or other devices.*

Therefore, McKinnon clearly discloses sending messages between the presentity server and separate devices as well as sending messages within a presentity server itself.

Applicant argues that "McKinnon does not send the SIP NOTIFY message from the second resource to the separate first resource to notify status of the second, but rather sends the NOTIFY messages between presentities within the presence server. Sending messages between the presentity server and separate devices is completely different from a presentity server communicating within itself."

The Examiner respectfully disagrees; McKinnon clearly discloses sending messages between the presentity server and separate devices (paragraph [0020]). McKinnon discloses a communication network 10 supports communications between a plurality of watcher devices 12, a presence server

14 providing one or more logical presentities 16, and numerous event sources 18. The watcher

devices 12 are the entities that subscribe to the presentities 16 of the presence system to receive

presence information based on changes in state of event sources 18 associated with a corresponding

presentity 16. The presentity 16 determines changes in state by receiving event notifications from

one or more of the event sources 18 via the presence server 14 or like presence function, processes

the event notifications to create presence information, and delivers the presence information to the

subscribing watcher devices 12 as necessary. *The presence function may be centralized or distributed in presence*

servers 14 or other devices.

Furthermore, as stated in the previous Office Actions McKinnon clearly disclose other

resources (participating devices) also use the SUBSCRIBE/NOTIFY messages to establish a

relationships with presentities (figure 3, paragraph [0005], [0027], [0031], [0033], [0034], [0040],

[0041]) and as such isn't limited to just watcher devices. McKinnon also clearly discloses that each of

the resources 20 (watcher devices and participant devices) has its own presentity 16 and the

resources are separate from the presentity server 14 (figure 3, paragraph [0026], [0027]). The

presentity server and the presentities thereon are clearly providing availability information (abstract,

paragraph [0018], [0019]) to the resources with which they are associated, therefore the

SUBSCRIBE/NOTIFY messages being sent between presentities is equivalent to sending the

SUBSCRIBE/NOTIFY messages between the resources themselves (i.e. the presentities are

functionally part of the associated resource). Furthermore, McKinnon clearly discloses that each of

the participant devices are represented by a particular presentity in the presences system and that the

presentities communicate with the participant devices (paragraph [0026], [0027], [0039]). Therefore,

McKinnon clearly discloses sending messages between the presentity server and separate devices as

well as sending messages within a presentity server itself.

Therefore, McKinnon clearly discloses sending messages between the presentity server and separate devices as well as from a presentity server communicating within itself."

Applicant argues "Regarding claims 5 and 6, the Office Action asserts that McKinnon discloses the presentity confirming that the ACD is registered and sending a SIP SUBSCRIBE message to the ACD requesting a SIP NOTIFY from the ACD in paragraphs 0002; 0004; 0026; 0027; 0031; and 0039. However, paragraphs 0002; 0004; 0026; 0038; and 0039 do not even mention SUBSCRIBE messages.

The Examiner respectfully disagrees; McKinnon clearly discloses the presentity confirming that the ACD is registered and sending a SIP SUBSCRIBE message to the ACD requesting a SIP NOTIFY from the ACD in paragraphs (paragraph [0023], [0037], [0038]). McKinnon clearly discloses a basic communication flow for a presence system is illustrated in FIG. 2. Initially, the presentity 16 will register with the presence server 14, and preferably provide initial state information (step 100). The registration will establish the presentity's ID, address, associated event sources 18, and requirements. Once registered, the presence server 14 will facilitate subscription of authorized watcher devices 12 to receive state information pertaining to the presentity 16. McKinnon also clearly discloses an exemplary message flow for a structured environment is provided in FIG. 6. Initially, presentities P1 and P2 will send SUBSCRIBE messages to presentity P3 of the focal device 26 to effectively register the participant devices 20 with the focal device 26 to receive state information (steps 400 and 402). Additionally, presentity P3 of the focal device 26 may elect to receive state information from presentities P1 and P2 by sending SUBSCRIBE messages thereto (steps 404 and 406). During operation, presentity P3 will receive event notifications from one or more event driver devices 22. Depending on the event notification, presentity P3 will process the information provided in the event notification and determine whether or not presentities P1 and P2

need to be sent notification in response to the event notification received from the event driver

device 22. Thus, for a first event (EVENT 1) (step 408), presentity P3 determines that no

notification to either presentity P1 or P2 is required. For a second event (EVENT 2) (step 410),

presentity P3 determines there is a need to notify the presentities P1 and P2 by sending a NOTIFY

message to presentities P1 and P2 (steps 412 and 414). Thus, presentity P3 of the focal device 26

may notify presentities P1 and P2 for associated participant devices 20 of state changes.

Therefore, McKinnon clearly teaches the presentity confirming that the ACD is registered

and sending a SIP SUBSCRIBE message to the ACD requesting a SIP NOTIFY from the ACD.

Furthermore, Applicant argues that paragraphs 0002; 0004; 0026; 0027; 0031; and 0039 do

not teach the claimed feature and the argues that paragraphs 0002; 0004; 0026; 0038; and 0039 do

not even mention SUBSCRIBE messages. The Examiner has cited paragraph [0002], [0004], [0026],

[0027], [0031], [0038], and [0039] with respect to the claimed feature paragraphs [0027] and [0031]

clearly discloses SIP SUBSRIBE messages while the clearly disclose the interaction between the

devices. Applicant should not rely solely on the portions cited by the Examiner as teaching the

claimed features. While a particular cited paragraph may not explicitly disclose SIP

SUBSCRIBE/NOTIFY messages it is readily apparent that McKinnon is using SIP to communicate

between the participating devices and therefore communication is done using SIP unless otherwise

noted.

The Examiner has cited particular columns and line numbers in the references as applied to

the claims above for the convenience of the Applicant. Although the specified citations are

representative of the teachings in the art and are applied to the specific limitations within the

individual claim, other passages and figures may apply as well. It is respectfully requested from the

Applicant, in preparing the responses, to fully consider each of the cited references in entirety as

potentially teaching all or part of the claimed invention, as well as the context of the passage

disclosed by the Examiner.

Applicant argues that "Claim 8 calls for the ACD to forward the NOTIFY message

containing a loading level to the presentity server and to the first resource and claim 9 further calls

for a report generator sending a Subscribe message to the presentity server requesting status of the

first and second resources. These features are also not disclosed by the references and thus these

claims are believed to be further distinguishable over the references."

The Examiner respectfully disagrees; McKinnon clearly discloses the ACD forwarding the

NOTIFY message containing a loading level to the presentity server and to the first resource (figure

7a, figure 7b, paragraph [0040], [0041], [0042], [0043]) and for a report generator sending a Subscribe

message to the presentity server requesting status of the first and second resources ().

McKinnon clearly discloses the ACD forwarding the NOTIFY message containing a loading level to

the presentity server and to the first resource. McKinnon clearly discloses a structured environment

for call distribution is provided in FIGS. 7A and 7B. In this embodiment, participant availability and

queued call status are treated as presence information that is handed out to subscribing agents

(AGENT 1 and AGENT 2) implemented on participant devices 20. Similarly, AGENT 3 is a

subscribing agent for the focal device 26, which is affiliated with presentity P3. Given the structured

nature of this embodiment, the presentities P1 and P2 of AGENT 1 and AGENT 2 initially register

with presentity P3 of the focal device 26. Accordingly, presentity P1 will send a SUBSCRIBE

message to presentity P3 (step 500), which will preferably respond with initial state information via a

NOTIFY message (step 502). As illustrated, the NOTIFY message will tell presentity P1 that there

are zero queued calls. Further, presentity P3, which acts as a queue, will subscribe to presentity P1 by

sending a SUBSCRIBE message (step 504). In response to the SUBSCRIBE message, presentity P1

will provide a NOTIFY message alerting the queue of the state of AGENT 1 (step 506). In this

example, AGENT 1 is currently unavailable. The process is repeated for presentity P2, wherein

presentity P2 will send a SUBSCRIBE message to presentity P3 (step 508), which will respond with

a NOTIFY message indicating that there are zero queued calls (step 510). Presentity P3 will then

send a SUBSCRIBE message to presentity P2 (step 512), which will respond with a NOTIFY

message indicating the state of AGENT 2, which is idle at this point (step 514).

[0041] At this point, AGENT 3 has effectively subscribed to receive state information from

AGENT 1 and AGENT 2 via presentity P3. Thus, when AGENT 1 becomes idle, presentity P1 will

send a NOTIFY message to presentity P3 indicating that AGENT 1 has become idle (step 516).

Further, when an event driver device 22 sends an INVITE message to AGENT 3 to trigger a new

call or media session (step 518), the focal device 26 will forward the INVITE message to one or

more of the agents that are idle (steps 520 and 522). Assuming that AGENT 2 accepts the incoming

call first, it will send an OK message back to the focal device 26 to indicate acceptance of the call

(step 524). The focal device 26 will then send a CANCEL message to AGENT 1 to cancel the

previously sent INVITE message (step 526). Since AGENT 2 is accepting the incoming call, its state

will change from idle to busy. As such, presentity P2 will send a NOTIFY message to presentity P3

of the focal device 26 to indicate that AGENT 2 is now in a busy state (step 528). The focal device

26 will then update its queue.

     Therefore, McKinnon clearly discloses the Notify message telling the presentity the queue

status (load level) of the agents (ACD, resources).

     McKinnon clearly discloses for a report generator sending a Subscribe message to the

presentity server requesting status of the first and second resources (abstract, paragraph [0019],

[0018], [0023], [0028]). McKinnon clearly discloses that each of the participating devices (resources)

is associated with a logic entity, referred to as a presentity, which subscribes to notification services

for the other participating devices (resources). When a state change occurs on any one of the

participating devices (resources), the corresponding presentity notifies (reports) the other devices of

the state change (status). As such, each participating device (resource) knows the status of the other

participating devices (resources) via the presentities and can systematically determine when and how

to provide services based on its current state and the current state of the other participating devices

(resources). The sources (resources) monitor normal user interactions and provide state information

to the presence system (report), which will evaluate the state information (status) from one or more

of the sources (resources) to create presence information to deliver to subscribers (report). The state

information bears on the presence or availability of the user, and may take many forms. The

presence information may range from a complex analysis of state information from many devices, to

simply the states of selected devices (resources). All of the presentities 16 for participant devices 20

will subscribe to receive updates pertaining to significant service-related changes from each of its

peers. As such, the presentity 16 for participant device 20 (P1) will subscribe to receive updates from

the presentities 16 for the other participant devices 20 (P2 and P3) by sending SUBSCRIBE

messages to presentities P2 and P3 via the presence server 14 (steps 200 and 202). Presentity P2 will

subscribe to presentities P1 and P3 by sending SUBSCRIBE messages to presentities P1 and P3

(steps 204 and 206). Finally, presentity P3 will send SUBSCRIBE messages to presentities P2 and P1

to receive updates (steps 208 and 210). At this point, presentities P1, P2, and P3 have subscribed to

receive updates pertaining to service-related changes that affect any one of the corresponding

participant devices 20. As such, when an event notification is received from an event driver device

22 by presentity P3 (step 212), presentity P3 will send NOTIFY messages to presentities P2 and P1

(steps 214 and 216) to indicate changes in state or behavior of corresponding participant device 3

due to receiving the event notification. Each of the presentities P1, P2, and P3 will communicate

such information with the corresponding participant devices 1, 2, and 3 through the presence server

14 or other device or system as desired.

Therefore, McKinnon clearly discloses a report generator sending a Subscribe message to

the presentity server requesting status of the first and second resources.

Applicant argues that "there is no description [in Chaney] of comparing loading level to a

predetermined threshold, and no description of determining that an ACD is unavailable, only notice

to users of which service provider has the lightest load. There is also no redirection, only notice to

users." and "Wolff merely discloses I/O load balancing to a plurality of server nodes but does not

compare ACD load level to a threshold to determine if the ACD is available."

The Examiner respectfully disagrees; in response to Applicant's arguments against the

references individually, one cannot show nonobviousness by attacking references individually where

the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871

(CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). McKinnon clearly

discloses determining the availability of the automatic call distributor (paragraph [0002], [0004],

[0028], [0040]), Chaney clearly discloses wherein determining the availability of the automatic call

distributor comprises comparing a loading level of the automatic call distributor (abstract, paragraph

[0015], [0040]), and Wolff clearly discloses determining that the automatic distributor is unavailable

when the loading level exceeds the threshold level and determining that the automatic distributor is

available when the loading level does not exceed the threshold (abstract, column 2 lines 52-62,

column 11 lines 34-41, column 25 lines 26-33 lines 48-53). McKinnon in general determines if a

device is available and if it is not redirects the call to an available device (agent/telephone). Chaney

clearly discloses redirecting a conference based on the load of the conference servers, the most

lightly loaded being considered available and the more heavily loaded ones being considered

unavailable. Finally, Wolff clearly discloses determining the utilization level of a first server and

redirecting subsequent requests for at least one resource to a second server node amongst a plurality

of server nodes in response to determining the utilization level of the first server, it is clear

(particularly from Wolff; column 25 lines 26-33 lines 48-53) that a threshold is being used to

determine the utilization of the server. Therefore, the combination of McKinnon, Chaney, and

Wolff clearly discloses comparing of the load level to a threshold and determining that the ACD is

unavailable if it exceeds the threshold.

Conclusion

The Examiner has cited particular columns and line numbers in the references as applied to

the claims above for the convenience of the Applicant. Although the specified citations are

representative of the teachings in the art and are applied to the specific limitations within the

individual claim, other passages and figures may apply as well. It is respectfully requested from the

Applicant, in preparing the responses, to fully consider each of the cited references in entirety as

potentially teaching all or part of the claimed invention, as well as the context of the passage

disclosed by the Examiner.

With respect to any amendments to the claimed invention, it is respectfully requested that

Applicant indicate the portion(s) of the specification which dictate(s) the structure relied on for

proper interpretation and also to verify and ascertain the metes and bounds of the claimed

invention.

If Applicant intends to make numerous amendments the Examiner respectfully requests that

Applicant submit a clean copy of the claims in addition to the marked up copy of the claims in order

to expedite the examination process.

12.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

> US 7,738,646 B2
> US 7,676,577 B2
> US 7,668,303 B2
> US 7,587,450 B2
> US 7,567,553 B2

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to DANIEL C. MURRAY whose telephone number is 571-270-1773. The

examiner can normally be reached on Monday - Friday 0800-1700 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Tonia Dollinger can be reached on (571)-272-4170. The fax phone number for the organization

where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. C. M./
Examiner, Art Unit 2443

/Alina N Boutah/

Primary Examiner, Art Unit 2443